

REMARKS/ARGUMENTS

In the first Office Action in this case, which action was dated April 1, 2004, the Examiner (1) rejected claims 1, 7 and 8 under the judicially created doctrine of non-statutory double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,647,553 in view of U.S. Patent No. 4,550,445 to Fender, (2) objected to a specified informality noted on page 1 in the specification, (3) objected to claims 7-10, inclusive, under 35 U.S.C. § 112 as being indefinite for failing to point out particularly and to claim distinctly the subject matter which applicant regards as her invention, (4) rejected claims 1-4, inclusive, and 6-10, inclusive, under 35 U.S.C. § 102(b) as being anticipated by Fender, (5) rejected claims 1, 2 and 6-10, inclusive, under 35 U.S.C. § 102(b) as being anticipated by Ezenekwe, U.S. Patent No. 6,381,754, and (6) rejected claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Fender in view of U.S. Patent No. 5,070,545 to Tapia.

In the Specification, pages 1-6, 9, and the Abstract are Amended.

In the Claims, claims 1-10 are cancelled and new claims 12-14 are presented.

Applicant has carefully reviewed the Examiner's comments and the cited and applied references, along with the specification, claims, abstract and drawings in this case, and by the present Amendment, proposes certain revisions in this case which are believed to place all claims which will be present in this application on the basis of entry of this Amendment, in conditions clearly poised for recognitions of patentability, and allowance.

By the present Amendment, originally presented claims 1-10, inclusive, have been cancelled without prejudice in favor of newly added claims 11-14, inclusive. Because of the wholesale

canceling of all of the originally [presented claims without prejudice, and the entry into this case of wholly new claims, the Examiner's specific points of rejection and objections regarding the originally presented claims become mute. Notwithstanding this condition, applicant herein addresses each of the cited and applied references in a manner which should point out to the Examiner why all claims now contained in this case on the basis of entry of this Amendment, are clearly in conditions for allowance.

In the interest of furnishing appropriate linguistic support for certain terminology which is now presented in the newly entered claims, and further in the interest of pointing out in particularly Figs. 1-3 in the drawings various features present in those drawing which relate to certain new claim terminology, appropriate Amendments have been made to relevant pages in the specification, and to relevant locations in Fig. 1, 2, and 3 (via the presentation herewith of two Replacement Sheets of drawings) to furnish such appropriate support for new claim terminology. The two Replacement Sheets replace the two Replaced Sheets, all of which sheets form the accompanying Appendix.

Completely setting applicant's invention apart from anything shown or suggested in the known, cited and applied prior art is the presence in applicant's recited headwear of a special crown and associated brim structure which include uniquely end-meeting elongate edge structures that define a special frontal, unoccluded opening in the crown of the headwear designed to expose and effectively "seat against" the bangs regions of a wearers headline. In one embodiment approach to the invention, the crown and brim structure remain attached to one another (joined) at all times. In other embodiments, this crown and brim structure join with one another in a manner which allows them to be coupled and uncoupled selectively, and repositioned with respect to one another in that process.

Uniquely, the opening or frontal aperture which is provided in the headwear of applicant's invention is defined by two elongate edge structures, one formed near the front of the crown, and the other formed near an inner portion of that part of the brim structure which is near the front of the crown, with these edge structures having opposite ends which meet in contact with one another. The importance of this arrangement is that the perimeter of the formed and defined opening effectively seats and seals against the wearer's head structure to provide desired free exposure for the bangs region of the hairline, without opening the interior of the crown to the through flow of air.

Nothing in the relevant cited and applied art teaches or suggests this kind of a structure.

The principal reference, Fender, illustrates and describes headwear wherein an edge in what might be thought of as a crown in that structure extends to the forward edge portion of a brim, and thus there is no opening or aperture provided in this headwear which is defined by end-meeting edge structures that seat effectively against a wearers head because of the locations of the meetings of their ends to define an opening or aperture which effectively seats against and seals to the dead structure of a wearer. A consequence, important to stated aspects of the Fender structure, is that this very different arrangement positively creates an organization promoting the through flow (within a crown structure) of the associated headwear.

The Ezenekwe reference, while very distinguishable structurally in that it does not provide a unoccluded frontal opening in headwear, is, in any event, not an appropriately useable reference, inasmuch as its filing date lies in time much later than the original underlying filing date, February 13, 1996, of this patent application. It is thus the case that, on the record of this application, the Examiner can see that applicant was in full possession of her claimed invention at a point in time which is well

before the filing date of the Ezenekwe reference, which reference, therefore, cannot be applied as a rejecting reference in relation to applicant's currently presented claims. These claims are very plainly based upon the disclosure of applicant's invention as such appeared in the underlying foundation case, and throughout the other intermediary patent applications referred to in the specification in this case.

Tapia reference which was previously raised by the Examiner in the examination of this case to address certain claim language involving the side-by-side joinder of fabric elements is no longer a relevant reference inasmuch as applicant's current claims no longer contain anything like the claim language to which the Examiner originally directed his comments about this reference.

As was mentioned earlier, and to support certain language present in the newly offered claims, appropriate supporting language changes have been made in the specification herein, and new replacement sheets of drawing containing Fig. 1-3, inclusive, have been entered in order to point out structural features in the drawings that relate to new claim language. At no point in the introduction of language changes or drawing reference numerals proposed by the present invention has any new matter been added to this case.

Accordingly, and for the reasons stated above, all claims now present in this application, on the basis of entry of this Amendment, are clearly distinguishable from anything shown or suggested by the cited and applied references previously raised in predecessors to this patent application, and because of this, all claims presented herein are patentable. Accordingly, favorable reconsideration of this application, and early allowance of all claims now presented therein, are respectfully solicited. If the Examiner has any questions regarding the amendment or remarks, the Examiner is invited to contact Attorney-of-Record Jon M. Dickinson, Esq., at 503-504-2271.

Request for Extension of time in Which to Respond

Applicant hereby requests an extension of time under 37 C.F.R. § 1.136 to respond within the third month following the Office action. A PTO Form 2038 credit card authorization in the amount of \$475.00 is enclosed. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any over-payment to Account No. 22-0258.

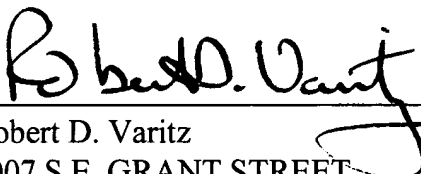
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23855

Respectfully Submitted,

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Amendments to the Drawings

The two Replacement Sheets of drawings accompanying this Amendment are furnished to replace the two Replaced Sheets of drawings, also accompanying this Amendment. The Replacement Sheets include additional reference numerals and letters in Figs. 1-3, inclusive.

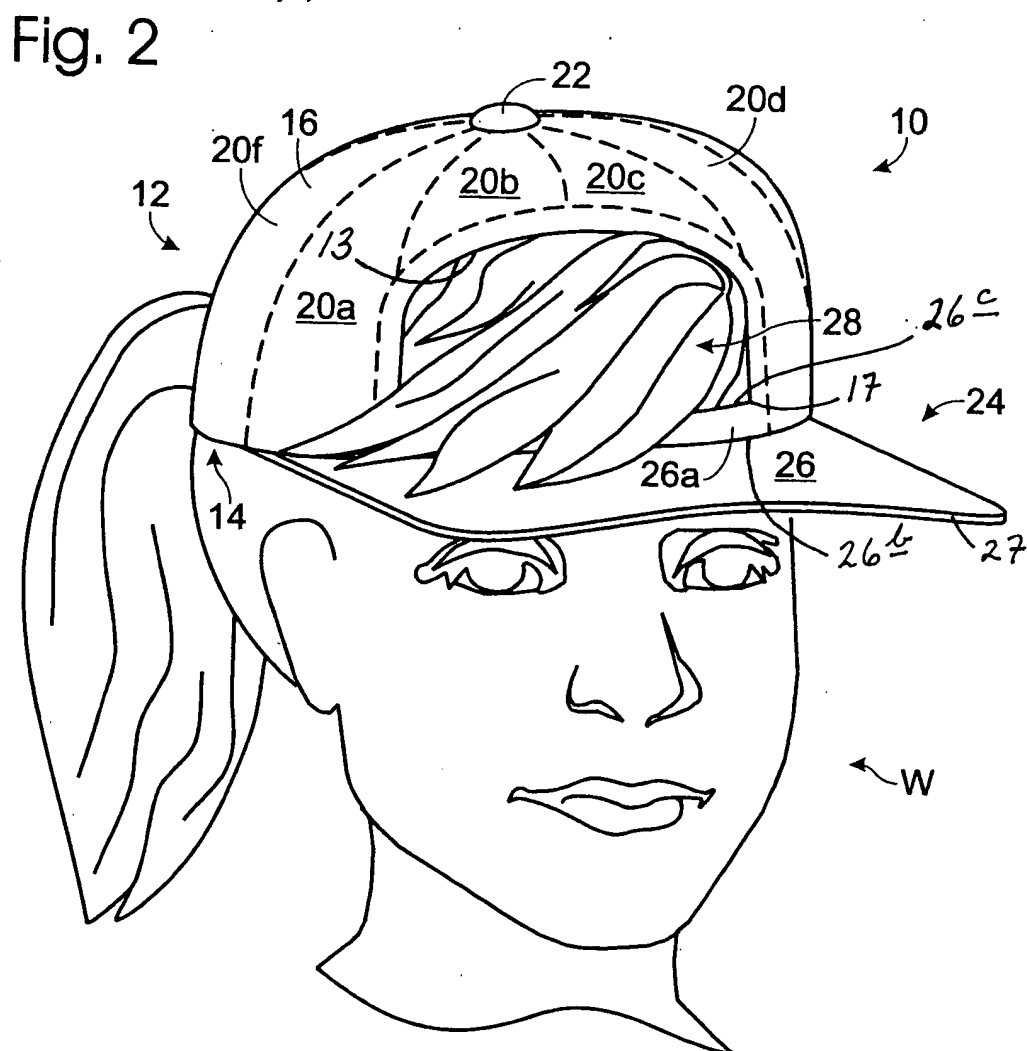
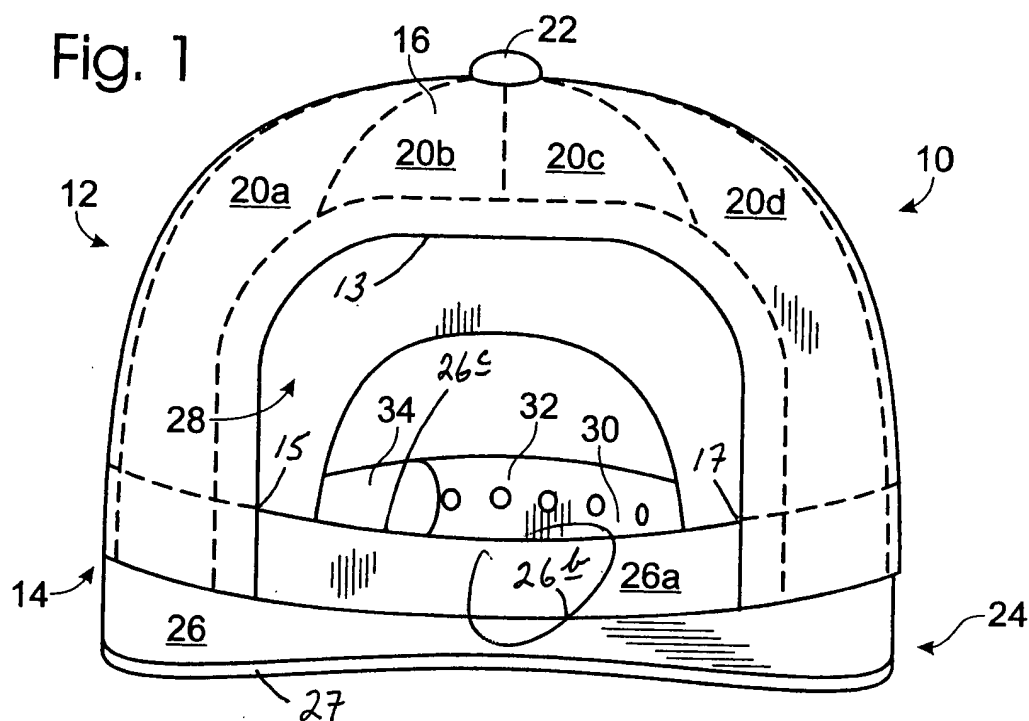




Fig. 3

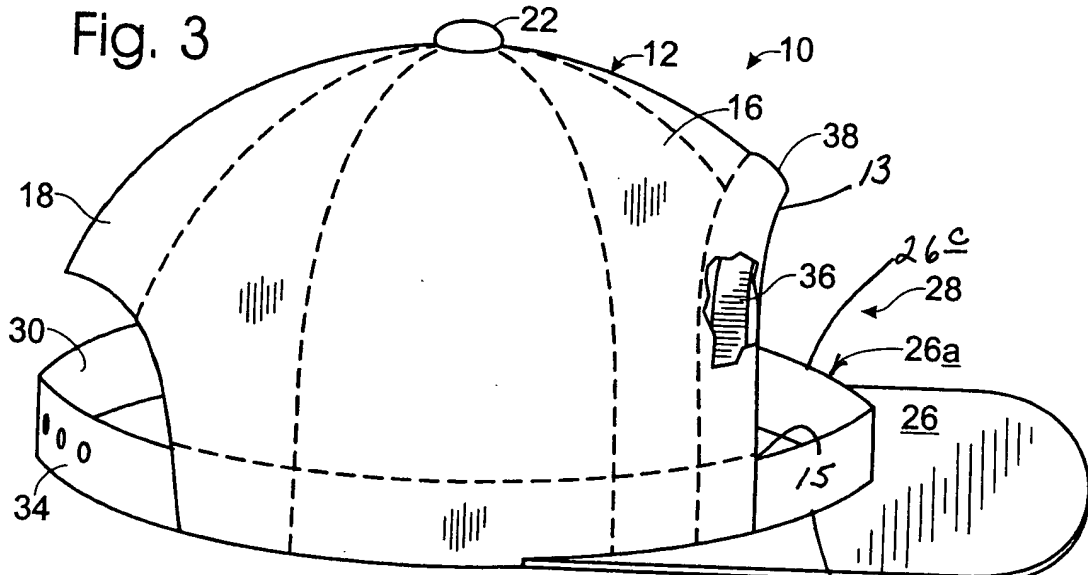


Fig. 4

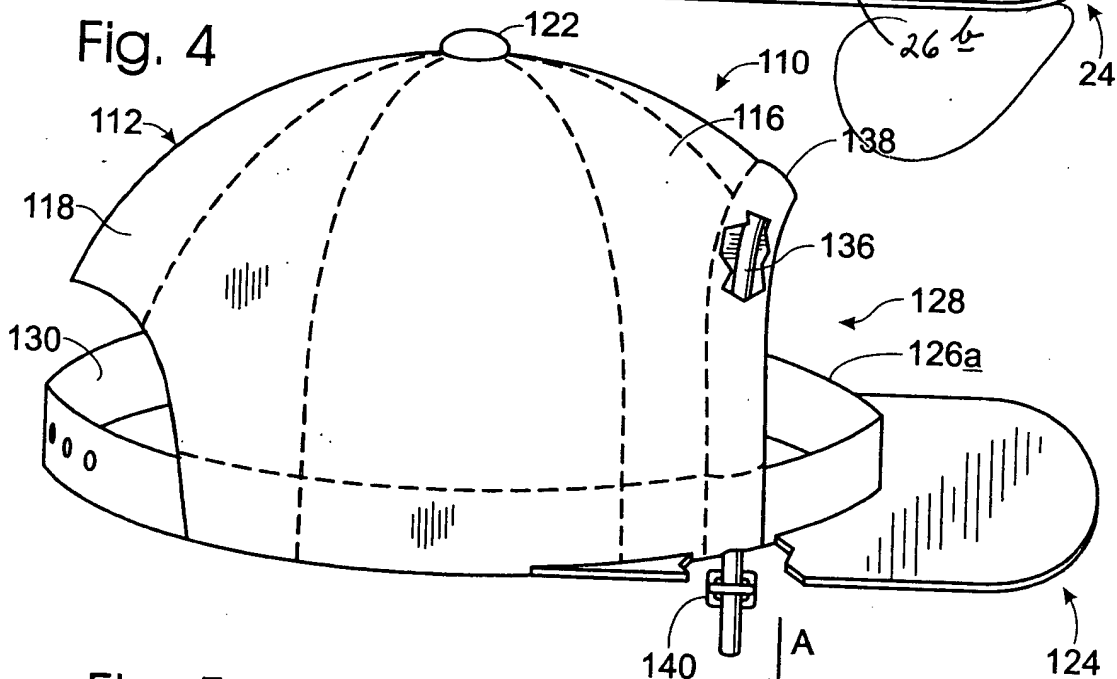


Fig. 5

